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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 22.9.2006.

Asha Saini .... Petitioner.

vs

Vijay Kumar Saini .. Respondent.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Ms.Jyoti Sareen,Advocate,for the petitioner.

Kiran Anand Lall, J.

In a petition under Section 11 of the Hindu Marriage Act for a decree of nullity of marriage, the petitioner wants to get the paternity of her child, who was born on 25.1.2001, determined, and for that purpose, she applied to the trial court for the DNA test of the respondent and the child. The court dismissed the application vide the impugned order on the ground that in a petition for a decree of nullity, question of paternity of the child was not in issue, and the only point involved was as to whether petitioner is the legally wedded wife of the respondent.

There is no illegality or infirmity in the order. The petition pending before the court is only for a decree of nullity of marriage on the ground that the respondent married the petitioner during the subsistence of his first marriage. There is no declaration sought regarding the paternity of the child. The judgment relied upon by the learned counsel, 2006 (2) RCR (Civil) 801, *Joseph vs. State of Kerala and others*, is of no use to her, as that case pertains to a petition under Women's Commission Act (Kerala), 1990,

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wherein the wife had sought a declaration that her female child was legitimate daughter of the respondent-therein with whom she claimed to have entered into a valid matrimonial-alliance. Since in the instant case, no declaration regarding the legitimacy of child has been sought, the court has rightly declined the prayer for the DNA test, asked for.

No merit.

Dismissed.

22.9.2006. (Kiran Anand Lall)
vs. Judge.